Commerce
Japan

DEPARTMENT OF STATE

Washington, D.C. 20520

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Mr. Peter Richards Brown
Legislative Counsel
Eleventh Guam Legislature
P. [illegible] 373
A[illegible] [illegible]ritory of Guam 96910

Dear Mr. Brown:

The General Counsel of the Federal Trade Commission has forwarded to us your letter of September 27, 1971, concerning legislation proposed in the Guam legislature that would set limits on the ownership by foreign citizens of stock in corporations doing business in Guam.

As your letter indicates, that legislation would, if enacted, be inconsistent with Article VII of the 1953 Treaty of Friendship, Commerce and Navigation between the United States and Japan. Article VII(1) provides that nationals and companies of either Party shall be accorded national treatment with respect to engaging in business activities in the territories of the other Party. Under Article XXIII, the Treaty applies to all territories under the sovereignty or authority of either Party, except the Panama Canal Zone and the Trust Territory of the Pacific Islands. It therefore applies to Guam.

The Treaty is still in force between the United States and Japan. The United States Government has viewed certain restrictions on foreign investment in Japan as inconsistent with the terms of Article VII. These restrictions have been, and continue to be, the subject of discussions between the United States and Japan.

Since the proposed legislation would be inconsistent with Article VII of the Treaty of Friendship, Commerce and Navigation with Japan, and with similar provisions in treaties with other countries, and

since United States Government policy is not to place obstacles in the path of inward investments by foreign nationals, we hope that the legislation will not be enacted. In addition, we would point out that United States Courts have generally held provisions such as that contained in Article VII to be self-executing, so that the possibility exists that a court would refuse to enforce state or territorial limitations on foreign investment on grounds of inconsistency with Article VII.

I hope the foregoing information will be useful to you.

Sincerely yours,

Jack E. McGregor
Assistant Legal Adviser
for Economic Affairs

cc: Mr. A. B. Won Pat
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